

### **REMARKS**

Claims 1-14, 17-29, and 31-49 were pending, with claim 30 having been withdrawn from consideration. The Examiner allowed claims 23-31<sup>1</sup> and 43-49 and rejected claims 1-14, 17-22, and 32-42 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The Examiner also rejected claims 1-5, 10-14, and 17-22 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,370,915 to Fujimoto et al. ("Fujimoto"). The Examiner indicated that claims 32-42 contain allowable subject matter and would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, as would claims 6-9, if they were additionally rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants amend claims 1, 7, and 32 and cancel claims 6 and 18-22 without prejudice or disclaimer. After entry of this Amendment, claims 1-5, 7-14, 17, 23-49 will be pending, although claim 30 will still be withdrawn from consideration.

#### **35 U.S.C. § 112, Second Paragraph Rejections**

The Examiner rejected claims 1-14, 17-22, and 32-42 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite due to the alleged inclusion of a method of using the load conveyance device in a wherein clause of independent claims 1, 18, and 32. The Examiner cited *IPXL Holdings v. Amazon.com*, 430 F.3d 1377, 1384 (Fed. Cir. 2005) in support of his rejection.

Applicants have amended claims 1 and 32 to clarify that the claims are directed solely to a device, and use permissible functional language to define aspects of the structural elements. See MPEP 2173.05(g); *In re Swinehart*, 439 F.2d 210, 169

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<sup>1</sup> If the Examiner has considered claim 30, please indicate so in the next Action from the Office.

U.S.P.Q. 226 (C.C.P.A. 1971). Applicants respectfully request that the Examiner withdraw the rejections.

As claims 2-14 and 17 depend directly or indirectly from claim 1 and claims 33-42 depend directly or indirectly from claim 32, the amendments to claims 1 and 32 overcome the rejection of these dependent claims. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections and allow the claims.

Applicants cancel claims 18-22 without prejudice or disclaimer, thus rendering the Examiner's rejection moot.

35 U.S.C. § 102(b) Rejections

The Examiner rejected claims 1-5, 10-14, and 17-22 under 35 U.S.C. § 102(b) as being allegedly anticipated by Fujimoto. Applicants amend claim 1 to include the allowable subject matter of previously dependent claim 6, now canceled. As claims 2-5, 10-14, and 17 depend directly or indirectly from claim 1, Applicants request that the Examiner withdraw the § 102(b) rejections. In combination with the amendments addressing the § 112, second paragraph, rejection, Applicants respectfully submit that all rejections have been overcome and request that the Examiner allow claims 1-5, 10-14, and 17 on at least this basis.

As noted above, Applicants cancel claims 18-22, which renders the Examiner's rejections of those claims, including the § 102 rejection, moot.

Allowable Subject Matter

The Examiner indicated that claims 6-9 and 23-49<sup>2</sup> contain allowable subject matter.

As discussed above, Applicants have amended claim 32 to address the Examiner's rejection of claims 32-42.

As also discussed above, Applicants have amended claim 1 to address both grounds of rejection of claims 1-5, 11-14, and 17.

Finally, the subject matter of claim 6 has been incorporated into claim 1 and has correspondingly been canceled. Claim 7 as amended depends from claim 1, and claims 8 and 9 depend from claim 7, thus, each depends from an allowable claim. Applicants respectfully submit that claims 7-9 should be allowed for at least that reason and request that the Examiner do so.

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<sup>2</sup> See footnote 1.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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